

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

TRIMBLE NAVIGATION LIMITED,

Plaintiff,

No. C 03-1604 PJH

v.

RHS INC., et al.,

Defendants.

**ORDER GRANTING LEAVE TO
AMEND SECOND SUPPLEMENTAL
PRELIMINARY INVALIDITY
CONTENTIONS**

Before this court is defendants' motion for leave to amend their Second Supplemental Preliminary Invalidity Contentions Pursuant to Patent L.R. 3-3. Defendants seek to amend their Preliminary Invalidity Contentions in order to set forth new contentions stating that the patent at issue is invalid in light of the 1995 TrimFlight User Guide. Having carefully read the parties' papers and considered the relevant legal authority, the court hereby GRANTS¹ defendants' motion, for the same reasons that led the court to grant defendants' motion for leave to amend their Amended Answer and Counterclaims at the August 15, 2007 hearing.

Specifically, in view of the facts that (1) defendants have acted reasonably diligently in securing the 1995 TrimFlight User Guide, and (2) plaintiff's possession and knowledge of the relevant TrimFlight documents ensures that plaintiff will suffer no undue prejudice, the court finds that defendants have sufficiently demonstrated good cause for amendment of

¹ This court finds the motion appropriate for decision without further oral argument, as permitted by Civil L.R. 7-1(b) and Fed. R. Civ. P. 78. See also Lake at Las Vegas Investors Group, Inc. v. Pacific Malibu Dev. Corp., 933 F.2d 724, 729 (9th Cir. 1991) (holding that the court's consideration of the moving and opposition papers is deemed an adequate substitute for a formal hearing), cert. denied, 503 U.S. 920 (1992). Accordingly, the September 5, 2007 hearing date is VACATED.

1 their Preliminary Invalidity Contentions. See Patent Local Rule 3-7. Accordingly,
2 defendants shall be allowed to file their final Invalidity Contentions, as requested.

3 However, defendants' corresponding motion to seal their motion for leave to amend,
4 and exhibits B and H to the supporting Tabesh Declaration is DENIED, as defendants have
5 failed to establish that a compelling need exists to file the information under seal.

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7 **IT IS SO ORDERED.**

8 Dated: August 27, 2007



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PHYLLIS J. HAMILTON
United States District Judge